



CITY OF SOMERVILLE, MASSACHUSETTS  
ZONING BOARD OF APPEALS  
JOSEPH A. CURTATONE, MAYOR

**MEMBERS**

HERBERT F. FOSTER, JR., *CHAIRMAN*  
ORSOLA SUSAN FONTANO, *CLERK*  
RICHARD ROSSETTI  
T. F. SCOTT DARLING, III, ESQ.  
DANIELLE FILLIS  
ELAINE SEVERINO (ALT.)  
JOSH SAFDIE (ALT.)

**Case #: ZBA 2008-54**  
**Site: 52 Powder House Boulevard**  
**Date of Decision: November 19, 2008**  
**Decision: *Petition Approved with Conditions***  
**Date Filed with City Clerk: November 26, 2008**

---

**ZBA DECISION**

---

<b>Applicant Name:</b>	Mohit Dilawari
<b>Applicant Address:</b>	52 Powder House Blvd, Unit #3, Somerville, MA 02144
<b>Property Owner Name:</b>	Mohit Dilawari
<b>Property Owner Address:</b>	52 Powder House Blvd, Unit #3, Somerville, MA 02144
<b>Agent Name:</b>	N/A

Legal Notice: Applicant & Owner Mohit Dilawari seeks a special permit (SZO §4.4.1) to expand an existing nonconforming deck on a garage roof to be approx 150 sf. RA/Ward 6.

<u>Zoning District/Ward:</u>	RA zone/Ward 6
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	October 24, 2008
<u>Date(s) of Public Hearing:</u>	10/24,
<u>Date of Decision:</u>	November 19, 2008
<u>Vote:</u>	5-0

---

Appeal #ZBA 2008-54 was opened before the Zoning Board of Appeals at Somerville City Hall on November 19, 2008. Notice of the Public Hearing was given to persons affected and was published and posted, all as required by M.G.L. c. 40A, sec. 11 and the Somerville Zoning Ordinance. After one (1) hearing(s) of deliberation, the Zoning Board of Appeals took a vote.

**DESCRIPTION:**

The Applicants are proposing to replace the deck and extend it to be 15 feet by 10.3 feet. It would be made of wood and have a similar style to the existing deck. The proposal is currently being reviewed by the Historic Preservation Commission and final details of the materials, massing, architectural details, etc. will be determined by this Commission.

**FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1):**

In order to grant a special permit, the SPGA must make certain findings and determinations as outlined in §5.1.4 of the SZO. This section of the report goes through §5.1.4 in detail.

1. Information Supplied: The Board finds that the information provided by the Applicant conforms to the requirements of §5.1.2 of the SZO and allows for a comprehensive analysis of the project with respect to the required Special Permits.

2. Compliance with Standards: The Applicant must comply "with such criteria or standards as may be set forth in this Ordinance which refer to the granting of the requested special permit."

In considering a special permit under §4.4 of the SZO, the Board finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. The increase in deck area by approximately 70 s.f. would be minimally impactful.

3. Consistency with Purposes: The Applicant has to ensure that the project "is consistent with (1) the general purposes of this Ordinance as set forth in Article 1, and (2) the purposes, provisions, and specific objectives applicable to the requested special permit which may be set forth elsewhere in this Ordinance, such as, but not limited to, those purposes at the beginning of the various Articles."

The proposal is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to providing for and maintain the uniquely integrated structure of uses in the City, conserving the value of land and buildings, and preserving the historical and architectural resources of the City.

4. Site and Area Compatibility: The Applicant has to ensure that the project "(i)s designed in a manner that is compatible with the characteristics of the built and unbuilt surrounding area, including land uses."

The expansion of the deck is compatible with the surrounding residential uses. The Historic Preservation Commission will review and approve final details of the deck to ensure that it is designed in a manner that is appropriate for the style and period of the house.

**DECISION:**

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Fillis and Scott Darling. Upon making the above findings, Susan Fontano made a motion to approve the request for a special permit. Richard Rossetti seconded the motion. Wherefore the Zoning Board of Appeals voted **5-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes				
1	Approval is for the construction of a 150± rear deck. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	Plng.					
	<table><tr><th>Date</th><th>Submission</th></tr><tr><td>October 24, 2008 (OSPCD stamp)</td><td>Application submitted to the City Clerk’s Office (plan view, rear &amp; side elevations)</td></tr></table>				Date	Submission	October 24, 2008 (OSPCD stamp)	Application submitted to the City Clerk’s Office (plan view, rear & side elevations)
	Date				Submission			
October 24, 2008 (OSPCD stamp)	Application submitted to the City Clerk’s Office (plan view, rear & side elevations)							
Changes to the approved plans that are not <i>de minimis</i> must receive ZBA approval, except as specified in condition 2.								
2	The Applicant shall comply with all of the laws, rules and regulations of the Historic Preservation Commission. Changes to the design of the deck (materials, massing, architectural details, etc) requested by the HPC that do not affect the side and rear yard setbacks would not require ZBA approval.	Building Permit	HPC					
3	No open flames are allowed on the deck.	Perpetual	ISD/FP					
4	The Applicant shall receive written approval from the condominium association to make improvements to the deck.	Final sign off	Plng.					
5	The Applicant shall contact Planning Staff at least five working days in advance of a request for a final sign-off on the building permit to ensure the proposal was constructed in accordance with the plans and information submitted and the conditions attached to this approval.	Final sign off	Plng.					

Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*  
Orsola Susan Fontano, *Clerk*  
Richard Rossetti  
T.F. Scott Darling, III, Esq.  
Danielle Fillis

Attest, by the Zoning Board of Appeals Administrative Assistant:

\_\_\_\_\_  
Dawn M. Pereira

Copies of this decision are filed in the Somerville City Clerk's office.  
Copies of all plans referred to in this decision and a detailed record of the  
SPGA proceedings are filed in the Somerville Planning Dept.

**CLERK'S CERTIFICATE**

Any appeal of this decision must be filed within twenty days after the date this notice is filed in the Office of the City Clerk, and must be filed in accordance with M.G.L. c. 40A, sec. 17 and SZO sec. 3.2.10.

In accordance with M.G.L. c. 40 A, sec. 11, no variance shall take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title.

Also in accordance with M.G.L. c. 40 A, sec. 11, a special permit shall not take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and either that no appeal has been filed or the appeal has been filed within such time, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed Special Permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.

The owner or applicant shall pay the fee for recording or registering. Furthermore, a permit from the Division of Inspectional Services shall be required in order to proceed with any project favorably decided upon by this decision, and upon request, the Applicant shall present evidence to the Building Official that this decision is properly recorded.

This is a true and correct copy of the decision filed on \_\_\_\_\_ in the Office of the City Clerk, and twenty days have elapsed, and

FOR VARIANCE(S) WITHIN

\_\_\_\_\_ there have been no appeals filed in the Office of the City Clerk, or  
\_\_\_\_\_ any appeals that were filed have been finally dismissed or denied.

FOR SPECIAL PERMIT(S) WITHIN

\_\_\_\_\_ there have been no appeals filed in the Office of the City Clerk, or  
\_\_\_\_\_ there has been an appeal filed.

Signed \_\_\_\_\_ City Clerk Date \_\_\_\_\_